

Panel 2c 2-21-91

#240

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ADDITIONAL REMARKS/COMMENTS (If Necessary)

C.C.R.B. No. #9002067

Complainant's allegation of PO employing unnecessary force is alleged to have occurred while Complainant was crossing the street and PO was driving his RMP. Complainant's UF245 listed witness, his companion at T/P/O, failed to appear for the Complainant's Scheduled Interview, as well as, an Interview specifically scheduled for her. IO re-contacted the Witness and she stated to the IO that she would prefer to call IO back re: scheduling another interview. She never called IO back. IO conducted a canvass of the P/O. IO spoke with the proprietors and their employees of shops that look out onto the precise P/O, some 50' away in the middle of Fordham Road. However, no one could recall the Subject Incident. The shops that the IO canvassed were among the closest stores to the exact point at which the Subject Incident took place according to the Complainant's description of the location.

(Encl.#'s: 1A-1E; 2A-2B; 4; 5; 7A-7B; 8; 10; 13; 18; 19; 21; 22)

## SUMMARY OF FINDINGS AND RECOMMENDATIONS

| ALLEGATION | CLASSIFICATION |   |   |   | FINDINGS AND RECOMMENDATIONS |
|------------|----------------|---|---|---|------------------------------|
|            | F              | A | D | E |                              |
| A)         |                | X |   |   | § 87(2)(g)                   |
| B)         | X              |   |   |   | § 87(2)(g)                   |

TOTAL ENCLOSURES

7 / 3

INVESTIGATOR'S SIGNATURE

Leonard Howes

SUPERVISOR'S SIGNATURE



## REPORT OF INVESTIGATION OF CIVILIAN COMPLAINT

SHEET "D"

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ALLEGATION (A)

## SUMMARY OF INVESTIGATION

C.C.R.B. No #2067/90

Complainant alleges, Subject PO accidentally/inadvertently "gunned" RMP he was driving, almost hitting himself, and the female he was with together with her 2 young children.

(Encl.#'s: 1A-1E; 5)

PO McCormack, Subject PO, states that he was stuck in traffic at T/P/O. McCormack states that in fact it was the Complainant that provoked the Subject Incident by jumping in F/O the RMP. The Complainant became belligerent & proceeded to punch the front end of the RMP. Complainant screamed at him, "Where the Fuck did you learn how to drive? Fuck You!" The Complainant then directed his wife to go across the street, while he dealt with the PO. McCormack states that he did not accidentally, or inadvertently, gun his RMP and almost hit the Complainant and his companions.

(Encl.#'s: 12A-12C)

PO Segura states that the RMP they were in was in fact actually stopped in rush-hour traffic when the unidentified Male he presumes was the Complainant started banging on the RMP's hood, yelling and screaming, and instigating a crowd to form. He was yelling, "Hey! Where are you going?" He states they definitely did not almost hit the Complainant. He states Complainant was belligerent right from the outset, telling his wife to go across the street while he dealt with the PO's.

(Encl.#: 23)

## ANALYSIS/FINDING (Omit Recommendation.)

Allegation "A" - § 87(2)(g)

§ 87(2)(g)

## ALLEGATION (B)

## SUMMARY OF INVESTIGATION

C.C.R.B. No. #9002067

Complainant alleges, Subject PO swung RMP's door open hitting him in the leg. PO then stuck flashlight in Complainant's face menacingly. PO then pushed the Complainant off the Avenue's median/divider into oncoming traffic.

(Encl.#'s: 1A-1E; 5)

PO McCormack states, he did not intentionally <sup>or accidentally</sup> swing RMP's door open hitting the Complainant in the leg. He states that he did not menace the Complainant with his flashlight. He states that he did not push the Complainant off the curb. He states that he did warn the Complainant that he would be DisCon'd. With that, the Complainant crossed the street, and disappeared into the crowd. McCormack states that he was heading to another higher priority job and saw no point in attempting to apprehend the Complainant.

(Encl.#: 12A-12C)

PO Segura states that the Complainant was yelling and screaming and belligerent as he walked toward the driver's side of the RMP. He states that because of the Complainant's unruly behavior, the POs had felt it best to exit the RMP so as not to be trapped in it. He states that given the congestion in the area at that time--i.e. it was rush-hour--it's possible that as PO McCormack exited the RMP, the door could have tapped the Complainant. However, Segura states that McCormack did not intentionally try to hit Complainant with the door. He states that if there was any type of contact, it was at most a tap, as McCormack tried to get out of the RMP. Segura states that the Complainant was not pushed by McCormack but rather feigned being pushed causing him to stumble into the stopped traffic. Segura states that the Complainant then proceeded to cross the street and disappeared into the crowd. Segura states that at no time did McCormack menace the Complainant with his flashlight.

(Encl.#: 23)

## ANALYSIS/FINDING (Omit Recommendation.)

Allegation "B" - § 87(2)(g)

§ 87(2)(g)